

109TH CONGRESS  
2D SESSION

# S. 3561

To amend the Mandatory Victims' Restitution Act to improve restitution for victims of crime, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 23, 2006

Mr. DORGAN (for himself, Mr. GRASSLEY, Mr. DURBIN, Mr. DEWINE, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Mandatory Victims' Restitution Act to improve restitution for victims of crime, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Restitution for Victims  
5       of Crime Act of 2006”.

6       **TITLE I—COLLECTION OF**  
7       **RESTITUTION**

8       **SEC. 101. SHORT TITLE.**

9       This title may be cited as the “Collection of Restitu-  
10       tion Improvement Act of 2006”.

1 **SEC. 102. PROCEDURE FOR ISSUANCE AND ENFORCEMENT**  
2 **OF RESTITUTION.**

3 Section 3664(f) of title 18, United States Code, is  
4 amended by striking paragraphs (2) through (4) and in-  
5 serting the following:

6 “(C)(i) Each restitution order shall—

7 “(I) contain information sufficient to identify  
8 each victim to whom restitution is owed;

9 “(II) require that a copy of the court order be  
10 sent to each such victim; and

11 “(III) inform each such victim of the obligation  
12 to notify the appropriate entities of any change in  
13 address.

14 “(ii) It shall be the responsibility of each victim to  
15 whom restitution is owed to notify the Attorney General,  
16 or the appropriate entity of the court, by means of a form  
17 to be provided by the Attorney General or the court, of  
18 any change in the victim’s mailing address while restitu-  
19 tion is still owed to the victim.

20 “(iii) The confidentiality of any information relating  
21 to a victim under this subparagraph shall be maintained.

22 “(2) The court shall order that the restitution im-  
23 posed is due in full immediately upon imposition.

24 “(3) The court shall direct the defendant—

25 “(A) to make a good-faith effort to satisfy the  
26 restitution order in the shortest time in which full

1        restitution can be reasonably made, and to refrain  
2        from taking any action that conceals or dissipates  
3        the defendant's assets or income;

4            “(B) to notify the court of any change in resi-  
5        dence; and

6            “(C) to notify the United States Attorney for  
7        the district in which the defendant was sentenced of  
8        any change in residence, and of any material change  
9        in economic circumstances that might affect the de-  
10       fendant's ability to pay restitution.

11        “(4) Compliance with all payment directions imposed  
12       under paragraphs (6) and (7) shall be prima facie evidence  
13       of a good faith effort under paragraph (3)(A), unless it  
14       is shown that the defendant has concealed or dissipated  
15       assets.

16        “(5) Notwithstanding any other provision of law, for  
17       the purpose of enforcing a restitution order, a United  
18       States Attorney may receive, without the need for a court  
19       order, any financial information concerning the defendant  
20       obtained by the grand jury that indicted the defendant for  
21       the crime for which restitution has been awarded, the  
22       United States Probation Office, or the Bureau of Prisons.  
23       A victim may also provide financial information con-  
24       cerning the defendant to the United States Attorney.

1       “(6)(A) At sentencing, or at any time prior to the  
2 termination of a restitution obligation under section 3613  
3 of this title, the court may—

4               “(i) impose special payment directions upon the  
5 defendant or modify such directions; or

6               “(ii) direct the defendant to make a single,  
7 lump sum payment, partial payments at specified in-  
8 tervals, in-kind payments, or a combination of pay-  
9 ments at specified intervals and in-kind payments.

10       “(B) The period of time over which scheduled pay-  
11 ments are established for purposes of this paragraph shall  
12 be the shortest time in which full payment reasonably can  
13 be made.

14       “(C) In-kind payments may be in the form of the re-  
15 turn of property, replacement of property, or, if the victim  
16 agrees, services rendered to the victim or a person or orga-  
17 nization other than the victim.

18       “(D) In ordering restitution, the court may direct the  
19 defendant to—

20               “(i) repatriate any property that constitutes  
21 proceeds of the offense of conviction, or property  
22 traceable to such proceeds; and

23               “(ii) surrender to the United States, or to the  
24 victim named in the restitution order, any interest of  
25 the defendant in any nonexempt asset.

1       “(E) The court may enter a restraining order or in-  
2       junction, require the execution of a satisfactory perform-  
3       ance bond, or take any other action to preserve the avail-  
4       ability of property for restitution.

5       “(7)(A) In determining whether to impose or modify  
6       specific payment directions, the court may consider—

7               “(i) the need to provide restitution to the vic-  
8       tims of the offense;

9               “(ii) the financial ability of the defendant;

10              “(iii) the economic circumstances of the defend-  
11       ant, including the financial resources and other as-  
12       sets of the defendant and whether any of those as-  
13       sets are jointly controlled;

14              “(iv) the projected earnings and other income  
15       of the defendant;

16              “(v) any financial obligations of the defendant,  
17       including obligations to dependents;

18              “(vi) whether the defendant has concealed or  
19       dissipated assets or income; and

20              “(vii) any other appropriate circumstances.

21       “(B) Any substantial resources from any source, in-  
22       cluding inheritance, settlement, or other judgment, shall  
23       be applied to any outstanding restitution obligation.

24       “(8)(A) If the court finds that the economic cir-  
25       cumstances of the defendant do not allow the payment of

1 any substantial amount as restitution, the court may di-  
2 rect the defendant to make nominal payments of not less  
3 than \$100 per year toward the restitution obligation.

4 “(B) Any money received from the defendant under  
5 subparagraph (A) shall be disbursed so that any out-  
6 standing assessment imposed under section 3013 is paid  
7 first in full.

8 “(9) Court-imposed special payment directions shall  
9 not limit the ability of the Attorney General to maintain  
10 an Inmate Financial Responsibility Program that encour-  
11 ages sentenced inmates to meet their legitimate financial  
12 obligations.

13 “(10)(A) The ability of the Attorney General to en-  
14 force restitution obligations ordered under paragraph (2)  
15 shall not be limited by appeal, or the possibility of a cor-  
16 rection, modification, amendment, adjustment, or reim-  
17 position of a sentence, unless the court expressly so orders  
18 for good cause shown and stated on the record.

19 “(B) Absent exceptional circumstances, as deter-  
20 mined by the court, an order limiting the enforcement of  
21 restitution obligations shall—

22 “(i) require the defendant to deposit, in the  
23 registry of the district court, any amount of the res-  
24 titution that is due;

1           “(ii) require the defendant to post a bond or  
2           other security to ensure payment of the restitution  
3           that is due; or

4           “(iii) impose additional restraints upon the de-  
5           fendant to prevent the defendant from transferring  
6           or dissipating assets.

7           “(C) No order described in subparagraph (B) shall  
8           restrain the ability of the United States to continue its  
9           investigation of the defendant’s financial circumstances,  
10          conduct discovery, record a lien, or seek any injunction  
11          or other relief from the court.”.

12   **SEC. 103. IMPOSITION OF CRIMINAL FINES AND PAYMENT**  
13                           **DIRECTIONS.**

14          Subsection 3572(d) of title 18, United States Code,  
15          is amended to read as follows:

16          “(d) PAYMENT.—

17                  “(1) IN GENERAL.—The court shall order that  
18                  any fine or assessment imposed be due in full imme-  
19                  diately upon imposition.

20                  “(2) EFFORTS TO MAKE PAYMENT.—The court  
21                  shall—

22                          “(A) direct the defendant to make a good-  
23                          faith effort to satisfy the fine and assessment in  
24                          the shortest time in which full payment can be  
25                          reasonably made, and to refrain from taking

1 any action that conceals or dissipates the de-  
2 fendant's assets or income;

3 “(B) direct the defendant to notify the  
4 court of any change in residence; and

5 “(C) order the defendant to notify the  
6 United States Attorney for the district in which  
7 the defendant was sentenced of any change in  
8 residence, and of any material change in eco-  
9 nomic circumstances that might affect the de-  
10 fendant's ability to pay restitution.

11 “(3) GOOD FAITH.—Compliance with all pay-  
12 ment directions imposed by paragraphs (5) and (6)  
13 shall be prima facie evidence of a good faith effort  
14 under paragraph (2)(A), unless it is shown that the  
15 defendant has concealed or dissipated assets;

16 “(4) ACCESS TO INFORMATION.—Notwith-  
17 standing any other provision of law, for the purpose  
18 of enforcing a fine or assessment, a United States  
19 Attorney may receive, without the need for a court  
20 order, any financial information concerning the de-  
21 fendant obtained by a grand jury, the United States  
22 Probation Office, or the Bureau of Prisons.

23 “(5) PAYMENT SCHEDULE.—

24 “(A) IN GENERAL.—At sentencing, or at  
25 any time prior to the termination of a restitu-



tion obligation under section 3613 of this title,  
the court may—

“(i) impose special payment directions  
upon the defendant or modify such direc-  
tions; or

“(ii) direct the defendant to make a  
single, lump sum payment, or partial pay-  
ments at specified intervals.

“(B) PERIOD OF TIME.—The period of  
time over which scheduled payments are estab-  
lished for purposes of this paragraph shall be  
the shortest time in which full payment can rea-  
sonably be made.

“(C) REPATRIATION.—The court may di-  
rect the defendant to repatriate any property  
that constitutes proceeds of the offense of con-  
viction, or property traceable to such proceeds.

“(D) SURRENDER.—In ordering restituti-  
on, the court may direct the defendant to sur-  
render to the United States any interest of the  
defendant in any non-exempt asset.

“(E) THIRD PARTIES.—If the court directs  
the defendant to repatriate or surrender any  
property in which it appears that any person

1 other than the defendant may have a legal in-  
2 terest—

3 “(i) the court shall take such action  
4 as is necessary to protect such third party  
5 interest; and

6 “(ii) may direct the United States to  
7 initiate any ancillary proceeding to deter-  
8 mine such third party interests in accord-  
9 ance with the procedures specified in sec-  
10 tion 413(n) of the Controlled Substances  
11 Act (21 U.S.C. 853(n)).

12 “(F) EXCLUSIVITY OF REMEDY.—Except  
13 as provided in this section, no person may com-  
14 mence an action against the United States con-  
15 cerning the validity of the party’s alleged inter-  
16 est in the property subject to reparation or sur-  
17 render.

18 “(G) PRESERVATION OF PROPERTY.—The  
19 court may enter a restraining order or injunc-  
20 tion, require the execution of a satisfactory per-  
21 formance bond, or take any other action to pre-  
22 serve the availability of property for payment of  
23 the fine or assessment.

1           “(6) CONSIDERATIONS.—In determining wheth-  
2           er to impose or modify special payment directions,  
3           the court may consider—

4                   “(A) the need to satisfy the fine or assess-  
5                   ment;

6                   “(B) the financial ability of the defendant;

7                   “(C) the economic circumstances of the de-  
8                   fendant, including the financial resources and  
9                   other assets of the defendant, and whether any  
10                  of those assets are jointly controlled;

11                  “(D) the projected earnings and other in-  
12                  come of the defendant;

13                  “(E) any financial obligations of the de-  
14                  fendant, including obligations to dependents;

15                  “(F) whether the defendant has concealed  
16                  or dissipated assets or income; and

17                  “(G) any other appropriate circumstances.

18           “(7) USE OF RESOURCES.—Any substantial re-  
19           sources from any source, including inheritance, set-  
20           tlement, or other judgment shall be applied to any  
21           fine or assessment still owed.

22           “(8) NOMINAL PAYMENTS.—If the court finds  
23           that the economic circumstances of the defendant do  
24           not allow the immediate payment of any substantial  
25           amount of the fine or assessment imposed, the court

1 may direct the defendant to make nominal payments  
2 of not less than \$100 per year toward the fine or as-  
3 sessment imposed.

4 “(9) INMATE FINANCIAL RESPONSIBILITY PRO-  
5 GRAM.—Court-imposed special payment directions  
6 shall not limit the ability of the Attorney General to  
7 maintain an Inmate Financial Responsibility Pro-  
8 gram that encourages sentenced inmates to meet  
9 their legitimate financial obligations.

10 “(10) ENFORCEMENT.—

11 “(A) IN GENERAL.—The ability of the At-  
12 torney General to enforce the fines and assess-  
13 ment ordered under paragraph (1) shall not be  
14 limited by an appeal, or the possibility of a cor-  
15 rection, modification, amendment, adjustment,  
16 or reimposition of a sentence, unless the court  
17 expressly so orders, for good cause shown and  
18 stated on the record.

19 “(B) EXCEPTIONS.—Absent exceptional  
20 circumstances, as determined by the court, an  
21 order limiting enforcement of a fine or assess-  
22 ment shall—

23 “(i) require the defendant to deposit,  
24 in the registry of the district court, any

1 amount of the fine or assessment that is  
2 due;

3 “(ii) require the defendant to post a  
4 bond or other security to ensure payment  
5 of the fine or assessment that is due; or

6 “(iii) impose additional restraints  
7 upon the defendant to prevent the defend-  
8 ant from transferring or dissipating assets.

9 “(C) OTHER ACTIVITIES.—No order de-  
10 scribed in subparagraph (B) shall restrain the  
11 ability of the United States to continue its in-  
12 vestigation of the defendant’s financial cir-  
13 cumstances, conduct discovery, record a lien, or  
14 seek any injunction or other relief from the  
15 court.

16 “(11) SPECIAL ASSESSMENTS.—The require-  
17 ments of this subsection shall apply to the imposi-  
18 tion and enforcement of any assessment imposed  
19 under section 3013 of this title.”.

20 **SEC. 104. COLLECTION OF UNPAID FINES OR RESTITUTION.**

21 Section 3612(b) of title 18, United States Code, is  
22 amended to read as follows:

23 “(b) INFORMATION TO BE INCLUDED IN JUDGMENT;  
24 JUDGMENT TO BE TRANSMITTED TO THE ATTORNEY  
25 GENERAL.—

1           “(1) IN GENERAL.—A judgment or order im-  
2       posing, modifying, or remitting a fine or restitution  
3       order of more than \$100 shall include—

4           “(A) the name, social security account  
5       number, mailing address, and residence address  
6       of the defendant;

7           “(B) the docket number of the case;

8           “(C) the original amount of the fine or res-  
9       titution order and the amount that is due and  
10      unpaid;

11          “(D) payment orders and directions im-  
12      posed under section 3572(d) and section  
13      3664(f) of this title; and

14          “(E) a description of any modification or  
15      remission.

16          “(2) TRANSMITTAL OF COPIES.—Not later than  
17      10 days after entry of the judgment or order de-  
18      scribed in paragraph (1), the court shall transmit a  
19      certified copy of the judgment or order to the Attor-  
20      ney General.”.

21   **SEC. 105. ATTORNEY’S FEES FOR VICTIMS.**

22      (a) ORDER OF RESTITUTION.—Section 3663(b) of  
23      title 18, United States Code, is amended—

24          (1) in paragraph (1)—

1 (A) in subparagraph (A), by striking “or”  
2 at the end;

3 (B) by redesignating subparagraph (B) as  
4 subparagraph (C);

5 (C) by inserting after subparagraph (A)  
6 the following:

7 “(B) reimburse the victim for attorneys’  
8 fees reasonably incurred in an attempt to re-  
9 trieve damaged, lost, or destroyed property  
10 (which shall not include payment of salaries of  
11 Government attorneys); or”; and

12 (D) in subparagraph (C), as so redesign-  
13 ated by this subsection, by inserting “or (B)”  
14 after “subparagraph (A)”;

15 (2) in paragraph (4)—

16 (A) by inserting “(including attorneys’ fees  
17 necessarily and reasonably incurred for rep-  
18 resentation of the victim, which shall not in-  
19 clude payment of salaries of Government attor-  
20 neys)” after “other expenses related to partici-  
21 pation in the investigation or prosecution of the  
22 offense”; and

23 (B) by striking “and” at the end;

24 (3) in paragraph (5), by striking the period and  
25 inserting “; and”; and

1 (4) by adding at the end the following:

2 “(6) in any case, reimburse the victim for rea-  
3 sonably incurred attorneys’ fees that are necessary  
4 and foreseeable results of the defendant’s crime  
5 (which shall not include payment of salaries of Gov-  
6 ernment attorneys).”.

7 (b) MANDATORY RESTITUTION TO VICTIMS OF CER-  
8 TAIN CRIMES.—Section 3663A(b) of title 18, United  
9 States Code, is amended—

10 (1) in paragraph (1)—

11 (A) in subparagraph (A), by striking “or”  
12 at the end;

13 (B) by redesignating subparagraph (B) as  
14 subparagraph (C);

15 (C) by inserting after subparagraph (A)  
16 the following:

17 “(B) reimburse the victim for attorneys’  
18 fees reasonably incurred in an attempt to re-  
19 trieve damaged, lost, or destroyed property  
20 (which shall not include payment of salaries of  
21 Government attorneys); or”; and

22 (D) in subparagraph (C), as so redesign-  
23 ated by this subsection, by inserting “or (B)”  
24 after “subparagraph (A)”;



1 (2) in paragraph (3), by striking “and” at the  
2 end;

3 (3) in paragraph (4)—

4 (A) by inserting “(including attorneys’ fees  
5 necessarily and reasonably incurred for rep-  
6 resentation of the victim, which shall not in-  
7 clude payment of salaries of Government attor-  
8 neys)” after “other expenses related to partici-  
9 pation in the investigation or prosecution of the  
10 offense”; and

11 (B) by striking the period and inserting “;  
12 and”; and

13 (4) by adding at the end the following:

14 “(5) in any case, reimburse the victim for rea-  
15 sonably incurred attorneys’ fees that are necessary  
16 and foreseeable results of the defendant’s crime  
17 (which shall not include payment of salaries of Gov-  
18 ernment attorneys).”.

## 19 **TITLE II—PRESERVATION OF** 20 **ASSETS FOR RESTITUTION**

### 21 **SEC. 201. SHORT TITLE.**

22 This title may be cited as the “Preservation of Assets  
23 for Restitution Act of 2006”.

1 **SEC. 202. AMENDMENTS TO THE MANDATORY VICTIMS RES-**  
2 **TITUTION ACT.**

3 (a) IN GENERAL.—Chapter 232 of title 18, United  
4 States Code, is amended by inserting after section 3664  
5 the following:

6 **“§ 3664A. Preservation of assets for restitution**

7 “(a) PROTECTIVE ORDERS TO PRESERVE ASSETS.—

8 “(1) IN GENERAL.—Upon the Government’s ex  
9 parte application and a finding of probable cause to  
10 believe that a defendant, if convicted, will be ordered  
11 to satisfy an order of restitution for an offense pun-  
12 ishable by imprisonment for more than 1 year, the  
13 court—

14 “(A) shall—

15 “(i) enter a restraining order or in-  
16 junction;

17 “(ii) require the execution of a satis-  
18 factory performance bond; or

19 “(iii) take any other action necessary  
20 to preserve the availability of any property  
21 traceable to the commission of the offense  
22 charged; and

23 “(B) if it determines that it is in the inter-  
24 ests of justice to do so, shall issue any order  
25 necessary to preserve any nonexempt asset (as

1 defined in section 3613) of the defendant that  
2 may be used to satisfy such restitution order.

3 “(2) PROCEDURES.—Applications and orders  
4 issued under paragraph (1) shall be governed by the  
5 procedures under section 413(e) of the Controlled  
6 Substances Act (21 U.S.C. 853(e)) and in this sec-  
7 tion.

8 “(3) MONETARY INSTRUMENTS.—If the prop-  
9 erty in question is a monetary instrument (as de-  
10 fined in section 1956(c)(5)) or funds in electronic  
11 form, the protective order issued under paragraph  
12 (1) may take the form of a warrant authorizing the  
13 Government to seize the property and to deposit it  
14 into an interest-bearing account in the Registry of  
15 the Court in the district in which the warrant was  
16 issued, or into another such account maintained by  
17 a substitute property custodian, as the court may di-  
18 rect.

19 “(4) POST-INDICTMENT.—A post-indictment  
20 protective order entered under paragraph (1) shall  
21 remain in effect through the conclusion of the crimi-  
22 nal case, including sentencing and any post-sen-  
23 tencing proceedings, until seizure or other disposi-  
24 tion of the subject property, unless modified by the

1 court upon a motion by the Government or under  
2 subsection (b) or (c).

3 “(b) DEFENDANT’S RIGHT TO A HEARING.—

4 “(1) IN GENERAL.—In the case of a  
5 preindictment protective order entered under sub-  
6 section (a)(1), the defendant’s right to a post-re-  
7 straint hearing shall be governed by paragraphs  
8 (1)(B) and (2) of section 413(e) of the Controlled  
9 Substances Act (21 U.S.C. 853(e)).

10 “(2) POST-INDICTMENT.—In the case of a post-  
11 indictment protective order entered under subsection  
12 (a)(1), the defendant shall have a right to a post-re-  
13 straint hearing regarding the continuation or modi-  
14 fication of the order if the defendant—

15 “(A) establishes by a preponderance of the  
16 evidence that there are no assets, other than  
17 the restrained property, available to the defend-  
18 ant to retain counsel in the criminal case or to  
19 provide for a reasonable living allowance for the  
20 necessary expenses of the defendant and the de-  
21 fendant’s lawful dependents; and

22 “(B) makes a prima facie showing that  
23 there is bona fide reason to believe that the  
24 court’s ex parte finding of probable cause under  
25 subsection (a)(1) was in error.

1 “(3) HEARING.—

2 “(A) IN GENERAL.—If the court deter-  
3 mines that the defendant has satisfied the re-  
4 quirements of paragraph (2), it may hold a  
5 hearing to determine whether there is probable  
6 cause to believe that the defendant, if convicted,  
7 will be ordered to satisfy an order of restitution  
8 for an offense punishable by imprisonment for  
9 more than 1 year, and that the seized or re-  
10 strained property may be needed to satisfy such  
11 restitution order.

12 “(B) PROBABLE CAUSE.—If the court  
13 finds probable cause under subparagraph (A),  
14 the protective order shall remain in effect.

15 “(C) NO PROBABLE CAUSE.—If the court  
16 finds under subparagraph (A) that no probable  
17 cause exists as to some or all of the property,  
18 or determines that more property has been  
19 seized and restrained than may be needed to  
20 satisfy a restitution order, it shall modify the  
21 protective order to the extent necessary to re-  
22 lease the property that should not have been re-  
23 strained.

24 “(4) REBUTTAL.—If the court conducts an evi-  
25 dentiary hearing under paragraph (3), the court

1 shall afford the Government an opportunity to  
2 present rebuttal evidence and to cross-examine any  
3 witness that the defendant may present.

4 “(5) PRETRIAL HEARING.—In any pretrial  
5 hearing on a protective order issued under sub-  
6 section (a)(1), the court may not entertain chal-  
7 lenges to the grand jury’s finding of probable cause  
8 regarding the criminal offense giving rise to a poten-  
9 tial restitution order. The court shall ensure that  
10 such hearings are not used to obtain disclosure of  
11 evidence or the identities of witnesses earlier than  
12 required by the Federal Rules of Criminal Procedure  
13 or other applicable law.

14 “(c) THIRD PARTY’S RIGHT TO POST-RESTRAINT  
15 HEARING.—

16 “(1) IN GENERAL.—A person other than the  
17 defendant who has a legal interest in property af-  
18 fected by a protective order issued under subsection  
19 (a)(1) may move to modify the order on the grounds  
20 that—

21 “(A) the order causes an immediate and ir-  
22 reparable hardship to the moving party; and

23 “(B) less intrusive means exist to preserve  
24 the property for the purpose of restitution.

1           “(2) MODIFICATION.—If, after considering any  
2       rebuttal evidence offered by the Government, the  
3       court determines that the moving party has made  
4       the showings required under paragraph (1), the  
5       court shall modify the order to mitigate the hard-  
6       ship, to the extent that it is possible to do so while  
7       preserving the asset for restitution.

8           “(3) INTERVENTION.—

9           “(A) IN GENERAL.—Except as provided in  
10      subparagraph (B) or paragraph (1), a person  
11      other than a defendant has no right to inter-  
12      vene in the criminal case to object to the entry  
13      of any order issued under this section or other-  
14      wise to object to an order directing a defendant  
15      to pay restitution.

16          “(B) EXCEPTION.—If, at the conclusion of  
17      the criminal case, the court orders the defend-  
18      ant to use particular assets to satisfy an order  
19      of restitution (including assets that have been  
20      seized or restrained pursuant to this section)  
21      the court shall give persons other than the de-  
22      fendant the opportunity to object to the order  
23      on the ground that the property belonged in  
24      whole or in part to the third party and not to  
25      the defendant, as provided in section 413(n) of

1           the Controlled Substances Act (21 U.S.C.  
2           853(n)).

3           “(d) GEOGRAPHIC SCOPE OF ORDER.—

4           “(1) IN GENERAL.—A district court of the  
5           United States shall have jurisdiction to enter an  
6           order under this section without regard to the loca-  
7           tion of the property subject to the order.

8           “(2) OUTSIDE THE UNITED STATES.—If the  
9           property subject to an order issued under this sec-  
10          tion is located outside of the United States, the  
11          order may be transmitted to the central authority of  
12          any foreign state for service in accordance with any  
13          treaty or other international agreement.

14          “(e) NO EFFECT ON OTHER GOVERNMENT AC-  
15          TION.—Nothing in this section shall be construed to pre-  
16          clude the Government from seeking the seizure, restraint,  
17          or forfeiture of assets under the asset forfeiture laws of  
18          the United States.

19          “(f) LIMITATION ON RIGHTS CONFERRED.—Nothing  
20          in this section shall be construed to create any enforceable  
21          right to have the Government seek the seizure or restraint  
22          of property for restitution.

23          “(g) RECEIVERS.—

24          “(1) IN GENERAL.—A court issuing an order  
25          under this section may appoint a receiver under sec-



1       tion 1956(b)(4) to collect, marshal, and take cus-  
 2       tody, control, and possession of all assets of the de-  
 3       fendant, wherever located, that have been restrained  
 4       in accordance with this section.

5           “(2) DISTRIBUTION OF PROPERTY.—The re-  
 6       ceiver shall have the power to distribute property in  
 7       its control to each victim identified in an order of  
 8       restitution at such time, and in such manner, as the  
 9       court may authorize.”.

10       (b) CONFORMING AMENDMENT.—The section anal-  
 11      ysis for chapter 232 of title 18, United States Code, is  
 12      amended by inserting after the item relating to section  
 13      3664 the following:

“Sec. 3664A. Preservation of assets for restitution.”.

14       (c) ENFORCEMENT.—Section 3202(b) of title 28,  
 15      United States Code, is amended—

16           (1) by inserting after “a statement that dif-  
 17       ferent property may be so exempted with respect to  
 18       the State in which the debtor resides.]’” the fol-  
 19       lowing:

20           “‘[In a criminal action, the statement summarizing  
 21       the types of property that may be exempt shall list only  
 22       those types of property that may be exempt under section  
 23       3613 of title 18.]’”;

24           (2) by inserting after “you want the proceeding  
 25       to be transferred.’” the following:

1       “‘If this notice is issued in conjunction with a crimi-  
 2   nal case, the district court where the criminal action is  
 3   pending may deny your request for a transfer of this pro-  
 4   ceeding.’”.

5   **SEC. 203. AMENDMENTS TO THE ANTI-FRAUD INJUNCTION**  
 6                   **STATUTE.**

7       Section 1345(a) of title 18, United States Code, is  
 8   amended—

9               (1) in paragraph (1)—

10                   (A) in subparagraph (B), by striking “or”  
 11                   at the end; and

12                   (B) by inserting after subparagraph (C)  
 13                   the following:

14                   “(D) committing or about to commit a  
 15                   Federal offense that may result in an order of  
 16                   restitution;”; and

17               (2) in paragraph (2)—

18                   (A) by striking “a banking violation” and  
 19                   all that follows through “healthcare offense”  
 20                   and inserting “a violation or offense identified  
 21                   in paragraph (1)”; and

22                   (B) by inserting “or offense” after “trace-  
 23                   able to such violation”.

1 **SEC. 204. AMENDMENTS TO THE FEDERAL DEBT COLLEC-**  
2 **TION PROCEDURES ACT.**

3 (a) PROCESS.—Section 3004(b)(2) of title 28, United  
4 States Code, is amended by inserting after “in which the  
5 debtor resides.” the following: “In a criminal case, the dis-  
6 trict court for the district in which the defendant was sen-  
7 tenced may deny the request.”.

8 (b) PREJUDGMENT REMEDIES.—Section 3101 of  
9 title 28, United States Code, is amended—

10 (1) in subsection (a)(1) by inserting after “the  
11 filing of a civil action on a claim for a debt” the fol-  
12 lowing: “or in any criminal action where the court  
13 may enter an order of restitution”; and

14 (2) in subsection (d)—

15 (A) by inserting after “The Government  
16 wants to make sure [name of debtor] will pay  
17 if the court determines that this money is  
18 owed.’” the following:

19 “‘In a criminal action, use the following opening  
20 paragraph: You are hereby notified that this [property]  
21 is being taken by the United States Government [the Gov-  
22 ernment], which says that [name of debtor], if convicted,  
23 may owe as restitution \$ [amount]. The Government says  
24 it must take this property at this time because [recite the  
25 pertinent ground or grounds from section 3101(b)]. The

1 Government wants to make sure [name of debtor] will pay  
 2 if the court determines that restitution is owed.’”;

3 (B) by inserting after “a statement that  
 4 different property may be so exempted with re-  
 5 spect to the State in which the debtor re-  
 6 sides.]’” the following:

7 “‘[In a criminal action, the statement summarizing  
 8 the types of property that may be exempt shall list only  
 9 those types of property that may be exempt under section  
 10 3613 of title 18.]’”; and

11 (C) by inserting after “You must also send  
 12 a copy of your request to the Government at  
 13 [address], so the Government will know you  
 14 want the proceeding to be transferred.’” the  
 15 following:

16 “‘If this Notice is issued in conjunction with a crimi-  
 17 nal case, the district court where the criminal action is  
 18 pending may deny your request for a transfer of this pro-  
 19 ceeding.’”.

## 20 **TITLE III—ENVIRONMENTAL** 21 **CRIMES RESTITUTION**

### 22 **SEC. 301. SHORT TITLE.**

23 This title may be cited as the “Environmental Crimes  
 24 Restitution Act of 2006”.

1 **SEC. 302. IMMEDIATE AVAILABILITY OF RESTITUTION TO**  
2 **VICTIMS OF ENVIRONMENTAL CRIMES.**

3 Section 3663(a)(1)(A) of title 18, United States  
4 Code, is amended by striking “or section 5124, 46312,  
5 46502, or 46504 of title 49,” and inserting “paragraph  
6 (2) or (3) of section 309(c) of the Federal Water Pollution  
7 Control Act (33 U.S.C. 1319(c)), section 105(b) of the  
8 Marine Protection, Research, and Sanctuaries Act of 1972  
9 (33 U.S.C. 1415(b)), section 9(a) of the Act to Prevent  
10 Pollution from Ships (33 U.S.C. 1908(a)), section 1423  
11 or subsection (a) or (b) of section 1432 of the Safe Drink-  
12 ing Water Act (42 U.S.C. 300h–2 and 300i–l), subsection  
13 (d) or (e) of section 3008 of the Solid Waste Disposal Act  
14 (42 U.S.C. 6928), paragraph (1) or (5) of section 113(c)  
15 of the Clear Air Act (42 U.S.C. 7413(c)), or section  
16 46312, 46502, or 46504 of title 49,”.

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